

# SENATE RECORD VOTE ANALYSIS

104th Congress  
2nd Session

Vote No. 33

March 14, 1996, 12:03 p.m.  
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## OMNIBUS APPROPRIATIONS/Emergency Salvage Timber Program Termination

**SUBJECT:**      **Balanced Budget Downpayment Act, II . . . H.R. 3019. Murray modified amendment No. 3493 to the Hatfield modified substitute amendment No. 3466.**

### ACTION: AMENDMENT REJECTED, 42-54

**SYNOPSIS:**      As introduced, H.R. 3019, the Balanced Budget Downpayment Act, II, will make rescissions and will provide appropriations for fiscal year 1996 for the five regular appropriations bills that have not yet been signed into law (three of those bills have been vetoed, one has been stalled by a Senate Democratic filibuster on its conference report, and one has been stalled by a Senate Democratic filibuster against even beginning its consideration).

The Hatfield modified substitute amendment contains the text of S. 1594, as reported, which is the Senate's version of the bill. The amendment would increase spending by \$1.2 billion over the House-passed amount, and would create a \$4.8 billion contingency fund to accommodate part of the additional \$8 billion in spending requested by President Clinton (funds would not be released unless offsets were identified and enacted; President Clinton did not ask for or identify any means of paying for his increased spending proposals). As amended, the contingency fund was reduced due to increased education spending with offsets (see vote No. 27).

**The Murray modified amendment** would repeal the Emergency Salvage Timber Program passed last year (see 104th Congress, 1st session, vote No. 121). Existing timber sale contracts under that program would be immediately suspended. The Government would then negotiate with contract holders: to modify the contracts to comply with environmental and natural resource laws; or to provide within 1 year equivalent replacement timber contracts. New contracts would have to meet all applicable laws, including that they would be subject to full administrative and judicial challenges. If the Government and a contract holder did not reach agreement, the Government would have the unilateral authority to modify or terminate the contracts; contract holders would be able to challenge judicially the terms of such modifications or terminations. The Government would pay for modified and terminated contracts by cutting funding for the Forest Service. The amendment would replace the salvage timber program with new procedures that would follow expedited administrative and judicial appeal procedures for salvage timber sales on federally owned land (though no limit would be placed on the duration of judicial appeals; further, the limit on filing a judicial appeal would not apply upon a showing of

(See other side)

YEAS (42)			NAYS (54)			NOT VOTING (3)	
Republicans (1 or 2%)	Democrats (41 or 89%)		Republicans (49 or 98%)	Democrats (5 or 11%)		Republicans (2)	Democrats (1)
Chafee	Akaka	Inouye	Abraham	Hutchison	Breaux	Bennett <sup>-2</sup>	Moynihan <sup>-1</sup>
	Baucus	Kennedy	Ashcroft	Inhofe	Byrd	Dole <sup>-2PN</sup>	
	Biden	Kerrey	Bond	Kassebaum	Heflin		
	Bingaman	Kerry	Brown	Kempthorne	Johnston		
	Boxer	Kohl	Burns	Kyl	Reid		
	Bradley	Lautenberg	Campbell	Lott			
	Bryan	Leahy	Coats	Lugar			
	Bumpers	Levin	Cochran	Mack			
	Conrad	Lieberman	Cohen	McCain			
	Daschle	Mikulski	Coverdell	McConnell			
	Dodd	Moseley-Braun	Craig	Murkowski			
	Dorgan	Murray	D'Amato	Nickles			
	Exon	Nunn	DeWine	Pressler			
	Feingold	Pell	Domenici	Roth			
	Feinstein	Pryor	Faircloth	Santorum			
	Ford	Robb	Frist	Shelby			
	Glenn	Rockefeller	Gorton	Simpson			
	Graham	Sarbanes	Gramm	Smith			
	Harkin	Simon	Grams	Snowe			
	Hollings	Wellstone	Grassley	Specter			
		Wyden	Gregg	Stevens			
			Hatch	Thomas			
			Hatfield	Thompson			
			Helms	Thurmond			
				Warner			

**LIVE PAIRS(1):**  
**PRESENT AND**  
**GIVING:      RECEIVING:**  
Jeffords (PY) . . . . Dole (PN)

**EXPLANATION OF ABSENCE:**  
1—Official Business  
2—Necessarily Absent  
3—Illness  
4—Other

**SYMBOLS:**  
AY—Announced Yea  
AN—Announced Nay  
PY—Paired Yea  
PN—Paired Nay

"good cause" for filing at a later date). Also, the procedures would use a narrower definition of salvage timber, and would not apply: to areas designated as wilderness; to roadless areas; to areas under consideration as wilderness; to late successional or riparian areas; or to areas withdrawn for any conservation purpose. (The 1995 timber law that would be repealed by the Murray amendment has three parts. First, it provides authority for the next 2 years for salvage timber sales on Federal lands. Second, it provides that any timber sales made under President Clinton's Pacific Northwest forest plan will not be subject to administrative appeals, and that judicial appeals will be expedited. Third, contract holders who have not been permitted to harvest due to Endangered Species Act suits over the marbled murrelet must be given contracts for timber harvesting that is not in the marbled murrelet's nesting area. Approximately 3 million Federal acres in the Pacific Northwest have been declared nesting areas for between 18,600 and 32,000 of these birds; another 300,000 of these birds are believed to inhabit Alaska. Of these 3 million acres, contracts for cutting 10,000 acres are in existence. There are 25 million acres of Federal lands in the Pacific Northwest. Except for the requirement that the Administration make available 10,000 acres to fulfill these existing contracts, no part of the existing law requires Federal timber sales.)

**Those favoring the amendment contended:**

The United States' national forests are at the center of extreme controversy. On the one side, we have environmentalists who wish to stop timber harvesting in the national forests. On the other side, we have timber companies that for decades have cut trees from those forests. Environmentalists had the upper-hand until last year, when Congress enacted a provision giving timber companies broad, temporary authority to cut trees on public lands. As we see it, neither side should be favored in this dispute--a compromise should be worked out that everyone can agree is fair. We believe that the Murray amendment offers such a compromise.

In the early 1990s, environmentalists had great success in winning court rulings to block timber harvests, particularly in the Pacific Northwest. Timber harvesting on public lands virtually seized. Public sentiment was generally in favor of environmentalists because the loggers had overcut vast areas. Cutting out dead and dying trees, or cutting trees to result in a multi-layered, canopied forest that mimics an old-growth forest would have been acceptable, but loggers had gone much further. They had built roads into pristine areas and had cut down every tree in sight, including trees that were several hundred years old. That type of logging is not sustainable.

In 1993 President Clinton held a Northwest forest conference to try to arrive at a solution that both the environmentalists and timber companies would accept. He was successful. Unfortunately, in practice, that plan has not resulted in nearly the level of sustainable harvests that were expected. We need to find a way to make that plan work.

We also need to find a way to allow the harvesting of salvage timber on public lands without harming the environment. In 1994, huge forest fires swept across the West and Pacific Northwest. Millions of acres of Federal land were left with dead and dying timber. If dead and dying timber is not salvaged (harvested) within 2 years, it becomes worthless. Further, other public lands in 1994 that did not burn had large amounts of dry, dead timber that posed a huge fire threat.

The fact that huge amounts of salvage timber were available to be harvested on public lands, and the fact that timber companies were going broke due to the low level of sales under the President's forest plan, led Congress to enact an expedited salvage timber sale program last year. That program is still in effect. We support its goal, but we deplore the way it has worked in practice. The program is written with such sweeping language that it is nearly impossible for the public to challenge any salvage sales contracts. As a result, some contracts have been entered into for cutting timber that no one would consider to be salvage timber. Perfectly healthy trees, some older than 250 years, have been harvested under this program. The pendulum has swung from the environmentalists back to the timber companies.

The Murray amendment would move the pendulum to the middle. First, it would cancel the salvage timber program and would suspend all existing contracts. Second, it would give the Government the authority to cancel contracts that would allow harvesting of old-growth and other timber that should be protected. The Government could either offer alternative stands of timber to cut or it could use, at its discretion, other means of paying back the contract holders. Third, it would make all salvage timber contracts, including existing contracts, subject to administrative and judicial appeals to make sure they are in compliance with all environmental laws. Fourth, and most importantly, it would enact new expedited salvage timber provisions that are fair to both sides. It would adopt expedited administrative review procedures, and would require judicial challenges to be filed under strict time limits. Further, it would narrow the definition of salvage timber to cover only dead and dying timber. The old, broader definition would still exist for salvage timber sales that did not need to be expedited, such as when conducting sales for thinning operations to improve forest health.

The Murray amendment is fair. Many small timber towns scattered throughout the Pacific Northwest are becoming ghost towns because of the current restrictions on logging on public lands. On the other side, Americans want to preserve the old-growth forests of the Pacific Northwest for future generations, and strongly oppose logging operations that harm this desire. A compromise is possible--careful, controlled logging operations are good for the environment, resulting in healthier forests. The Murray amendment would reach this compromise goal, and thus merits our approval.

**Those opposing the amendment contended:**

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Environmental fanaticism and presidential politics have brought this amendment before us. Just seven months ago Congress passed a very modest measure on timber harvesting on public lands. That measure, which we believe did not go nearly far enough, was necessary because of the gross abuses of the administrative and judicial processes that had been used by environmental extremists to prevent nearly all legitimate timber sales. Since passage of that measure the small minority of Americans who advocate a "no-cut, no-use" policy for all Federal forests have been engaged in a vigorous misinformation campaign. They have been determined to make the public falsely believe that Congress and the President agreed to cut down the last of our irreplaceable old-growth forests. Their efforts have had some success in this election year--the President has caved in, saying that he made a "mistake" in signing the law. If given the opportunity, President Clinton would sign the Murray amendment into law, undoing the very meager reforms enacted last year and effectively banning all logging on Federal lands.

The emergency salvage timber program that Congress passed last year, and that the President signed, is nearly toothless. That program contains three sections. The first two sections (on salvage timber and on the Northwest forest plan) give the Clinton Administration authority which it may or may not exercise. The third provision directs the Federal Government to honor specific existing contracts for harvesting 10,000 acres of timber on Federal lands. Those contracts have been held up for more than 6 years because they are within a 3-million-acre area that is home for a "threatened" species, the marbled murrelet. After surveying 10 percent of this area, scientists guessed that around 25,000 marbled murrelets were nesting in it (another 300,000 are nesting in Alaska), and this guess is what has stopped the timber contracts from going forward. Therefore, as part of the salvage timber program enacted last year, Congress ordered the Administration to offer the contract holders alternative stands of timber to cut. In Washington and Oregon alone the Federal Government has 24 million acres of forests; at the rate of 10,000 acres per year, it would take 2,400 years to cut each acre just once. At the end of 2,400 years, of course, there would be plenty of trees on those acres--trees are a renewable resource.

The smaller of the optional sections of the salvage timber law is designed to help the President implement Option 9, his Northwest forest plan. To understand the rationale for passing this section, one must first understand the history of timber harvesting in this area. During World War II, the Federal Government asked private timber companies to clearcut their land in order to make more wood available for the war effort. In return, the Federal Government promised them that they would be allowed to make sustainable harvests on public lands after the war. For several decades that promise was kept. As a result, numerous small timber towns are scattered throughout the Northwest in national forests. Americans have greatly benefitted from the cheap and abundant supply of wood that has come from the Northwest forests.

In the late 1980s environmentalists began to turn their attention to stopping this logging. They typically talked about "old growth" forests, saying that loggers would soon have cut down all trees older than a couple of hundred years. Using the Endangered Species Act and other environmental laws, environmentalists were able to use the courts and Federal administrative appeal processes to stop logging. By 1989 all logging had been stopped, and efforts were being made to find a compromise. Interestingly, in 1989, the Ancient Forest Alliance, a coalition of environmental groups, proposed that in the short-term a little less than 5 billion board feet should be harvested annually. No lasting agreement has been reached between 1989 and today, and timber harvesting has not resumed. Tens of thousands of jobs have been lost.

As the years have passed, environmentalists have become more extreme. Rather than talking about sustainable harvests, many now openly oppose all logging. They worship nature, and see any human involvement in the forests as corrupting, even if that involvement is beneficial. Thus, we have environmentalists who bitterly oppose timber harvesting that improves forest health, such as thinning or cutting to improve the mix of tree types, and who at the same time object to efforts to put out forest fires that destroy hundreds of thousands of acres of forests, including old-growth forests. Natural fires that kill ancient old-growth trees are "good;" timber harvesting that helps plant and animal species is unnatural and "bad."

In 1993 President Clinton announced his "compromise" solution (Option 9), which is to allow the cutting in certain nonprotected areas of approximately 1 billion board feet per year. This amount is only 20 percent of the former harvest level. This option has not been working for the same reason that few trees have been cut in the Northwest in the past several years--administrative and judicial appeals. To speed matters along, therefore, the measure that Congress passed 7 months ago limited the right to challenge sales under Option 9. Those sales still have to be made in accordance with environmental laws, and they still are prepared by the Clinton Administration, which has more than its share of environmental extremists, but they cannot be tied up forever with appeals.

The final, and largest section of the law passed 7 months ago is on salvage timber. In 1994 huge forest fires in the West and Northwest destroyed 4 million acres and more than 4 billion board feet of timber. The Federal Government spent \$1 billion fighting those fires, in which 33 lives were lost. In some places the heat was so intense that the ground was baked into a thick, water impermeable crust. Large areas were left covered with dead and dying timber. According to the Forest Service, we have 18 billion board feet of dead and dying salvage timber on those burned lands and on lands that are in danger of being burned. Under the salvage timber provisions passed last year, authority was given to the Forest Service to sell on an expedited basis some of that salvage timber. Dead and dying timber quickly loses its value--within 2 years it is worthless. Each sale prepared under this expedited authority is done with an Endangered Species Act assessment as well as with an environmental assessment under the National Environmental Policy Act. However, administrative appeals are not allowed, and judicial appeals are expedited. Environmentalists who oppose salvage operations are not able to block them by dragging out suits until the timber rots.

The program has been working. For example, 143 million board feet of salvage timber is in the pipeline from the 1994 fires in

the Kootenai National Forest in Montana. The reports we have been hearing from all parties to these salvage timber sales are positive. The Forest Service has been bringing everyone interested in the sales into the process at the beginning. Environmentalists, sportsmen, and timber companies work together with the Government to develop salvage plans that will help restore forest health.

The only real, and minor, problems that have risen so far under the salvage law have to do with the existing contracts in marbled murrelet nesting areas. The Clinton Administration wants authority to buy out those contracts instead of giving alternative timber stands to cut--this bill will give that authority. The Clinton Administration wants the right to offer the same volume of timber instead of the same kind (it has had difficulty in finding the same kind)--this bill will give that authority. The Clinton Administration wants the deadline for completing these contracts lifted--this bill will lift that deadline. The only thing this bill will not do that the Administration wants is give the Government the right to cancel existing contracts without compensation.

The Murray amendment would give the Government the right to break these contracts unilaterally. This offensive change is only the tip of the iceberg. The amendment would eliminate the temporary salvage timber program, and would replace it with a permanent law program that would greatly restrict the lands to which it would apply. The language is so limiting that it could be interpreted as being a total ban. A total ban would not be necessary, however, because the cumbersome process for approving salvage timber contracts that would be created by the amendment would slow the sales down, and the right to challenge contracts in the courts judicially without binding time limits would finish them off.

The salvage timber and other timber provisions that were passed a few months ago were carefully negotiated with the Clinton Administration over a 6-month period. The salvage timber provisions, which are by far the largest segment of that law, are temporary. In contrast, the provisions in the Murray amendment, which have not been subject to any hearings or negotiations, would be permanent. Passing the Murray amendment would not improve salvage timber operations or any other timber operations on public lands; it would end them, permanently. We oppose that result and thus oppose this amendment.